

REMARKS

The Final Office Action dated June 1, 2010, addresses claims 31, 34-37, 40-42 and 60-63 rejecting all claims under 35 U.S.C. § 103(a). Claims 31, 34-35 and 60-63 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nobles (U.S. Publication No. 2002/0045908, which issued as U.S. Patent No. 6,562,052, "Nobles") in view of Ginn et al. (U.S. Patent No. 6,702,835, "Ginn"). Claim 36 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nobles in view of Ginn and further in view of Sawyer (U.S. Patent No. 5,749,895, "Sawyer"). Claim 37, 40 and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nobles in view of Ginn and further in view of Das (U.S. Patent No. 5,334,217, "Das"). Claim 42 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nobles in view of Ginn and Das and further in view of Sawyer.

By this Response, Applicants propose to amend independent claims 31 and 37 to include additional structural limitations per the Examiner's recommendation. Dependent claim 61 has been amended to conform to the amendment to claim 37. No new matter has been added by the amendments.

Applicants respectfully request reconsideration and early allowance of the pending claims in view of the proposed amendments and the following remarks.

Rejection of claims under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 31, 34-37, 40-42 and 60-63 under 35 U.S.C. § 103(a) as being unpatentable over Nobles in view of one or more of the Ginn, Das and Sawyer references. Applicants respectfully submit that

independent claims 31 and 37 recite at least one limitation that is not taught, disclosed or suggested by Nobles, Ginn, Das and Sawyer, either alone or in combination.

Independent claim 31, as amended, recites at least the limitation “introducing into a heart of a patient a tissue stabilization device comprising an elongate, tubular delivery member and at least a first flexible member coupled to a distal end of the delivery member, said tubular member comprising a lumen configured to slidably receive a cutting member, and said first flexible member comprising a first end portion and a second free end portion,” which is not taught, disclosed or suggested by Nobles.

In the outstanding Office Action, the Examiner equates the delivery member and the flexible member, as recited in claim 31, to the actuation rod 50 and suture clasp arms 28, 30 (or single resilient arm 128) of Nobles. See Office Action at p. 3. However, amended claim 31 recites that the delivery member comprises a lumen through which a cutting member is introduced. Nowhere does Nobles disclose, teach or suggest that the actuation rod 50 comprises a lumen through which a cutting member can be introduced. As clearly shown in FIG. 2 of Nobles, and further described in col. 14, l. 19-24 of Nobles, needles 136 or other cutting members are introduced into the target site through apertures 134 that are positioned around the periphery of the cylindrical outer tube 132. Therefore, Applicants respectfully submit that at least the above-mentioned limitation of claim 31 is not disclosed, taught or suggested by Nobles.

Ginn, which the Examiner cites only with regards to the direction of tissue penetration, does not overcome this deficiency of Nobles. Therefore, Applicants respectfully submit that claim 31 is patentable over Nobles in view of Ginn. Claims 34,

35 and 60-63 depend from claim 31, and therefore, are patentable over Nobles in view of Ginn for at least the same reasons as claim 31.

Claim 36, which also depends from claim 31, is rejected as unpatentable over Nobles in view of Ginn and further in view of Sawyer. Sawyer, which the Examiner has cited only with regard to a tissue welding apparatus, does not overcome the deficiencies of Nobles and Ginn. Therefore, claim 36 is patentable over Nobles, Ginn and Sawyer for at least the same reasons as claim 31.

Regarding independent claim 37, Applicants respectfully submit that claim 37, as amended, recites at least the limitation “introducing into the heart of a patient a tissue stabilization device, the tissue stabilization device comprising an elongate delivery member and a plurality of hexagonally shaped flexible members coupled to a distal end of the delivery member,” (emphasis added), which is not disclosed, taught or suggested by Nobles in view of Ginn and further in view of Das. The Examiner acknowledges that Nobles and Ginn do not disclose the hexagonally shaped flexible members, for which she relies on Das. See Office Action, p. 5. The Examiner equates the hexagonally shaped flexible members to the occluding disk 20 of Das, which comprises a membrane 22 and an elastically deformable frame 24 carried about the periphery of the membrane. See col. 4, l. 6 to col. 5, l. 22 of Das. Applicants respectfully point out that claim 37 recites hexagonally shaped flexible members for tissue stabilization, and not a hexagonally shaped occluder, as disclosed by Das. Nowhere does Das disclose, teach or suggest flexible members for tissue stabilization.

For at least the above reasons, Applicants respectfully submit that independent claim 37 is patentable over Nobles in view of Ginn and further in view of Das. Claims 40 and 41 depend from claim 37, and therefore, are patentable over Nobles, Ginn and Das for at least the same reasons as claim 37. Claim 42, which also depends from claim 37, is rejected as unpatentable over Nobles in view of Ginn and Das and further in view of Sawyer. Sawyer, which the Examiner has cited only with regard to a tissue welding apparatus, does not overcome the deficiencies of Nobles, Ginn and Das. Therefore, claim 42 is patentable over Nobles in view of Ginn and Das and further in view of Sawyer for at least the same reasons as claim 37.

In view of the foregoing amendments and remarks, Applicants respectfully request that the rejection of claims 31, 34-37, 40-42 and 60-63 under 35 U.S.C § 103(a) be withdrawn.

CONCLUSION


Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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